

1

2

3

4

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

5

6

7 QUINDALE POWELL,

8 Petitioner,

9 v.

10 ERIC ARNOLD, Warden,

11 Respondent.

Case No. 16-cv-05876-HSG (PR)

**ORDER DENYING MOTION FOR  
RECONSIDERATION; DIRECTING  
RESPONDENT TO RESEND MOTION  
TO PETITIONER'S CURRENT  
ADDRESS**

Re: Dkt. No. 18

12

13 Petitioner filed this *pro se* action seeking a writ of habeas corpus pursuant to 28 U.S.C.  
14 § 2254 to challenge his 2008 state court conviction. On February 9, 2017, the Court issued an  
15 order to show cause why the petition should not be granted. On May 2, 2017, the Court denied  
16 Petitioner's request for appointment of counsel.

17 Petitioner has moved for reconsideration of the denial of his request for appointment of  
18 counsel. Where the court's ruling has not resulted in a final judgment or order, reconsideration of  
19 the ruling may be sought under Rule 54(b) of the Federal Rules of Civil Procedure, which  
20 provides that any order which does not terminate the action is subject to revision at any time  
21 before the entry of judgment. Fed. R. Civ. P. 54(b). "Reconsideration is appropriate if the district  
22 court (1) is presented with newly discovered evidence, (2) committed clear error or the initial  
23 decision was manifestly unjust, or (3) if there is an intervening change in controlling law." *School*  
24 *Dist. No. 1J v. ACandS, Inc.*, 5 F.3d 1255, 1263 (9th Cir. 1993). Petitioner has not shown newly  
25 discovered evidence, clear error, manifest injustice or an intervening change in the controlling law  
26 with regard to his request for counsel. The motion for reconsideration is therefore DENIED.

27

On April 3, 2017, Respondent filed a motion to dismiss the petition as untimely.

28 Following one extension of time, Petitioner's opposition was due on or before June 1, 2017. On

1 June 6, 2017, Petitioner filed a letter with the Court stating that he never received Respondent's  
2 motion. Respondent is directed to resend the motion to Petitioner at his current address, within  
3 **five (5)** days of this order, and file a notice of the date the motion was resent.

4 The Court will sua sponte grant Petitioner a second extension of time, to **July 21, 2017**, to  
5 file an opposition to Respondent's motion to dismiss. Respondent shall file a reply within  
6 **fourteen (14)** days of the date any opposition is filed.

7 This order terminates Docket No. 18.

8 **IT IS SO ORDERED.**

9 Dated: 6/8/2017

10  
11   
12 HAYWOOD S. GILLIAM, JR.  
13 United States District Judge  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28